

OGC 50 v o

OGC Has Reviewed

2 May 1955

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MEMORANDUM FOR: [REDACTED]

SUBJECT : Disclosure of Restricted Atomic Energy Data

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REFERENCE :

[REDACTED]

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1. Reference dispatch requests that "EE query the appropriate information is covered"

[REDACTED]

information related below may therefore be considered. I have underlined certain words and phrases which bear on the question at hand.

(a) The Atomic Energy Act of 1954, provides (42 USCA 2161) that the Atomic Energy Commission shall control the dissemination of Restricted Data "in such a manner as to assure the common defense and security" and shall (USCA 2162) "determine the data, within the definition of Restricted Data, which can be published without due risk to the common defense and security"

(b) Restricted Data is defined (42 USCA 2014) as "all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy"

(c) Penalties for revealing Restricted Data are presented in 42 USCA 2274:

"whoever, lawfully or unlawfully, having possession of, access to, control over, or being entrusted with any document, writing, sketch, photograph, plan, model, instrument, appliance, note, or information involving or incorporating Restricted Data--

(a) communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with intent to injure the United States or with intent to secure an advantage to any foreign nation, upon conviction thereof, shall be punished by death or imprisonment for life (but the penalty of death or imprisonment for life may be imposed only upon recommendation of the jury), or by a fine of not more than \$20,000 or imprisonment for not more than twenty years, or both;

(b) communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with reason to believe such data will be utilized to injure the United States or to secure an advantage to any foreign nation, shall, upon conviction, be punished by a fine or not more than \$10,000 or imprisonment for not more than ten years, or both."

(d) 42 USCA 2277 might also be applicable in a case similar to that referred to in the reference dispatch:

"Whoever, being or having been an employee or member of the Commission, a member of the Armed Forces, an employee of any agency of the United States, or being or having been a contractor of the Commission or of an agency of the United States, or being or having been an employee of a contractor of the Commission or of an agency of the United States, or being or having been a licensee of the Commission, or being or having an employee of a licensee of the Commission, knowingly communicates, or whoever conspires to communicate or to receive, any Restricted Data, knowing or having reason to believe that such data is Restricted Data, to any person not authorized to receive Restricted Data pursuant to the provisions of this chapter or under rule or regulation of the Commission issued pursuant thereto, knowing or having reason to believe such person is not so authorized to receive Restricted Data shall, upon conviction thereof, be punishable by a fine or not more than \$2,500."

3. It is also possible that in some cases, disclosure of uranium mining data may, in the United States, be punishable under the Espionage Act (18 USCA 793). However, it is probable that a conviction would be easier to obtain under the language cited above.

4. It is extremely unlikely that unlawful disclosure of restricted uranium mining data in a case such as that referred to in the dispatch would constitute a "treasonable act" by United States standards. Treason is a very specific criminal act in the United States, is considered the most heinous of all crimes, and is defined only in the Constitution. Congress has only the authority to define the penalties for treason and not to define the act. The Constitution states: "Treason against the United States shall consist only in levying War against them, or, in adhering to their Enemies, giving them Aid and Comfort." Under this definition the word "Enemies" means only those foreign nations with whom the United States is engaged in a state of war.

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5. If more than general conversations are involved in the case referred to in the dispatch, the advice of [redacted] [redacted] should be sought.

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[redacted]
Office of the General Counsel

OGC/MLL:pkb

Distribution: Orig. & Addressee

✓ Subject File - *Current Operations*
✓ [redacted] *Elaborate*
✓ [redacted]
✓ [redacted]

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